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6 HOUSING AUTHORITY OF THE COUNTY OF CONTRA COSTA, ELIZABETH
7 CAMPBELL, KATHY GUZMAN and JOANNA RODRIGUEZ

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

10
11 ONITA TUGGLES,

12 Plaintiff,

13 v.

14 CITY OF ANTIOCH; ANTIOCH POLICE
15 DEPARTMENT; JAMES HYDE, Chief of
16 Police, Antioch Police Department, in his
17 official capacity; CORPORAL STEVE BIAS,
18 OFFICER DESMOND BITTNER, and
19 OFFICER WILLIAM DILLARD II, in their
20 individual and official capacities; COUNTY OF
21 CONTRA COSTA; HOUSING AUTHORITY
22 OF THE COUNTY OF CONTRA COSTA;
23 ELIZABETH CAMPBELL, KATHY
24 GUZMAN and JOANNA RODRIGUEZ, in
25 their individual and official capacities,

26 Defendants.

Case No. C 08-01914 JSC

**ANSWER TO FIRST AMENDED
COMPLAINT AND REQUEST FOR JURY
TRIAL**

27 COME NOW defendants HOUSING AUTHORITY OF THE COUNTY OF CONTRA
28 COSTA (hereinafter referred to as "HACCC"), ELIZABETH CAMPBELL, KATHY GUZMAN and
JOANNA RODRIGUEZ and answers the First Amended Complaint filed by plaintiff ONITA
TUGGLES, filed April 29, 2008, as follows:

1. Answering paragraph 1 of the First Amended Complaint, responding parties deny
each and every allegation contained therein.

1 2. Responding parties admit that plaintiff ONITA TUGGLES is an African American
2 female who resides in the City of Antioch in the County of Contra Costa, California and that Ms.
3 TUGGLES is a recipient of rental assistant payments under the Federal Section 8 program.
4 Responding parties deny the balance of paragraph 2.

5 3. Answering paragraphs 3, 4, 5, 6, 7, 8 and 9 of the First Amended Complaint,
6 responding parties do not have sufficient information or belief to fully respond to the allegations
7 therein and, on that basis, deny said allegations.

8 4. Answering paragraph 10 of the First Amended Complaint, responding parties deny
9 each and every allegation contained therein.

10 5. Answering paragraph 11 of the First Amended Complaint, responding parties do not
11 have sufficient information or belief to fully respond to the allegations therein and, on that basis,
12 deny said allegations.

13 6. In response to paragraph 12, responding parties admit that defendant ELIZABETH
14 CAMPBELL is a resident of the State of California and is employed by defendant HACCC and acted
15 at all times relevant to the First Amended Complaint as an employee of HACCC. Responding
16 parties deny all other allegations of paragraph 12.

17 7. In response to paragraph 13, responding parties admit that KATHY GUZMAN is a
18 resident of the State of California, was employed by HACCC and acted at all times relevant to the
19 First Amended Complaint if at all, as an employee of HACCC. Responding parties deny all other
20 allegations of paragraph 13.

21 8. In response to paragraph 14, responding parties admit that defendant JOANNA
22 RODRIGUEZ is a resident of the State of California and at all times relevant to the First Amended
23 Complaint was employed by defendant HACCC and acted as an employee of defendant HACCC.
24 Responding parties deny all other allegations of paragraph 14.

25 9. Answering paragraph 15 of the First Amended Complaint, responding parties deny
26 each and every allegation contained therein.

27 10. Answering paragraph 16 of the First Amended Complaint, responding parties do not
28 have sufficient information or belief to fully respond to the allegations therein and, on that basis,
deny said allegations.

1 11. Answering paragraph 17 of the First Amended Complaint, responding parties deny
2 each and every allegation contained therein.

3 12. Answering paragraph 18 of the First Amended Complaint, responding parties admit
4 that this court has subject matter jurisdiction over the parties pursuant to 28 U.S.C. §§1331 and 1343
5 but denies that 28 U.S.C. §§2201 and 2202 comprise an independent basis for jurisdiction.

6 13. Answering paragraph 19 of the First Amended Complaint, responding parties deny
7 each and every allegation contained therein.

8 14. Answering paragraphs 20 and 21 of the First Amended Complaint, responding parties
9 admit said allegations.

10 15. In response to paragraph 22, responding parties deny, on information and belief, that
11 plaintiff's tenancy at 1933 Paradise Peak Court in the City of Antioch terminated in April 2007.
12 Responding parties admit the other allegations of paragraph 22.

13 16. Answering paragraph 23 of the First Amended Complaint, responding parties do not
14 have sufficient information or belief to fully respond to the allegations therein and, on that basis,
15 deny said allegations.

16 17. In response to paragraph 24, responding parties admit the first sentence thereof,
17 beginning at page 6:20 and extending through page 6:24. Responding parties deny all allegations in
18 the remainder of the paragraph, beginning at page 6:24.

19 18. In response to paragraph 25, responding parties admit that a 30-day Notice was sent to
20 plaintiff on or about March 28, 2007 and deny all other allegations in said paragraph.

21 19. Answering paragraph 26 of the First Amended Complaint, responding parties deny
22 each and every allegation contained therein.

23 20. Answering paragraph 27 of the First Amended Complaint, responding parties do not
24 have sufficient information or belief to fully respond to the allegations therein and, on that basis,
25 deny said allegations.

26 21. In response to paragraph 28, responding parties admit that plaintiff wrote to defendant
27 RODRIGUEZ to request a pre-termination administrative hearing on April 5, 2007 and deny all
28 other allegations therein.

1 22. Answering paragraph 29 of the First Amended Complaint, responding parties deny
2 each and every allegation contained therein.

3 23. In response to paragraph 30, responding parties admit that an administrative hearing
4 was conducted on June 11, 2007 and deny all other allegations of said paragraph.

5 24. Answering paragraph 31 of the First Amended Complaint, responding parties deny
6 each and every allegation contained therein.

7 25. Answering paragraph 32, responding parties admit that on or about June 26, 2007, the
8 hearing officer, Laurel Weil, issued her written opinion directing the HOUSING AUTHORITY OF
9 THE COUNTY OF CONTRA COSTA to rescind its March 28, 2007 notice of proposed termination
10 of assistance and that said decision states that the notice of proposed termination did not satisfy due
11 process requirements set forth at 24 CFR 982.555(c). All other allegations of paragraph 32 are
12 denied.

13 26. Answering paragraph 33, responding parties admit the first two sentences, from 8:21-
14 8:24 and denies the balance of the paragraph as it does not accurately quote from the hearing
15 officer's decision.

16 27. Answering paragraph 34 of the First Amended Complaint, responding parties do not
17 have sufficient information or belief to fully respond to the allegations therein and, on that basis,
18 deny said allegations.

19 28. Answering paragraphs 35, 36, 37, 38, 39, 40 and 41 of the First Amended Complaint,
20 responding parties deny each and every allegation contained therein.

21 29. Answering paragraph 42 of the First Amended Complaint, responding parties do not
22 have sufficient information or belief to fully respond to the allegations therein and, on that basis,
23 deny said allegations. Responding parties deny that any notice of government claim were presented
24 to the HOUSING AUTHORITY OF THE COUNTY OF CONTRA COSTA.

25 30. Answering paragraphs 43, 44, 45 and 46 of the First Amended Complaint, responding
26 parties deny each and every allegation contained therein.

27 31. Answering paragraph 47 of the First Amended Complaint, which incorporates other
28 paragraphs by reference, responding parties admit, deny or otherwise plead to the incorporated
paragraphs as previously set forth.

1 32. Answering paragraphs 48, 49 and 50 of the First Amended Complaint, responding
2 parties deny each and every allegation contained therein.

3 33. Answering paragraph 51 of the First Amended Complaint, which incorporates other
4 paragraphs by reference, responding parties admit, deny or otherwise plead to the incorporated
5 paragraphs as previously set forth.

6 34. Answering paragraphs 52, 53, 54, 55 and 56 of the First Amended Complaint, the
7 Second Cause of Action is not against these answering defendants and, therefore, no answer is
8 necessary to these paragraphs.

9 35. Answering paragraph 57 of the First Amended Complaint, which incorporates other
10 paragraphs by reference, responding parties admit, deny or otherwise plead to the incorporated
11 paragraphs as previously set forth.

12 36. Answering paragraphs 58, 59 and 60 of the First Amended Complaint, responding
13 parties deny each and every allegation contained therein.

14 37. Answering paragraph 61 of the First Amended Complaint, which incorporates other
15 paragraphs by reference, responding parties admit, deny or otherwise plead to the incorporated
16 paragraphs as previously set forth.

17 38. Answering paragraphs 62 and 63 of the First Amended Complaint, responding parties
18 deny each and every allegation contained therein.

19 39. Answering paragraph 64 of the First Amended Complaint, which incorporates other
20 paragraphs by reference, responding parties admit, deny or otherwise plead to the incorporated
21 paragraphs as previously set forth.

22 40. Answering paragraphs 65, 66 and 67 of the First Amended Complaint, the Fifth
23 Cause of Action is not against these answering defendants and, therefore, no answer is necessary to
24 these paragraphs.

25 41. Answering paragraph 68 of the First Amended Complaint, which incorporates other
26 paragraphs by reference, responding parties admit, deny or otherwise plead to the incorporated
27 paragraphs as previously set forth.

28 42. Answering paragraphs 69 and 70 of the First Amended Complaint, responding parties
deny each and every allegation contained therein.

1 43. Answering paragraph 71 of the First Amended Complaint, which incorporates other
2 paragraphs by reference, responding parties admit, deny or otherwise plead to the incorporated
3 paragraphs as previously set forth.

4 44. Answering paragraphs 72 and 73 of the First Amended Complaint, responding parties
5 deny each and every allegation contained therein.

6 45. Answering paragraph 74 of the First Amended Complaint, which incorporates other
7 paragraphs by reference, responding parties admit, deny or otherwise plead to the incorporated
8 paragraphs as previously set forth.

9 46. Answering paragraphs 75 and 76 of the First Amended Complaint, responding parties
10 deny each and every allegation contained therein.

11 47. Answering paragraph 77 of the First Amended Complaint, which incorporates other
12 paragraphs by reference, responding parties admit, deny or otherwise plead to the incorporated
13 paragraphs as previously set forth.

14 48. Answering paragraphs 78 and 79 of the First Amended Complaint, responding parties
15 deny each and every allegation contained therein.

16 49. Answering paragraph 80 of the First Amended Complaint, which incorporates other
17 paragraphs by reference, responding parties admit, deny or otherwise plead to the incorporated
18 paragraphs as previously set forth.

19 50. Answering paragraphs 81 and 82 of the First Amended Complaint, responding parties
20 deny each and every allegation contained therein.

21 51. Answering paragraph 83 of the First Amended Complaint, which incorporates other
22 paragraphs by reference, responding parties admit, deny or otherwise plead to the incorporated
23 paragraphs as previously set forth.

24 52. Answering paragraph 84 of the First Amended Complaint, responding parties deny
25 each and every allegation contained therein.

26 53. Answering paragraph 85 of the First Amended Complaint, responding parties do not
27 have sufficient information or belief to fully respond to the allegations therein and, on that basis,
28 deny said allegations.

1 54. In response to paragraphs 86, responding parties admit that defendants CAMPBELL,
2 GUZMAN and RODRIGUEZ were employed by the HACCC and were acting in the course and
3 scope of their employment at all times relevant to the action. Responding parties deny all other
4 allegations of paragraph 86.

5 55. Answering paragraph 87 of the First Amended Complaint, responding parties deny
6 each and every allegation contained therein.

7 56. Answering paragraph 88 of the First Amended Complaint, which incorporates other
8 paragraphs by reference, responding parties admit, deny or otherwise plead to the incorporated
9 paragraphs as previously set forth.

10 57. Answering paragraphs 89 and 90 of the First Amended Complaint, responding parties
11 deny each and every allegation contained therein.

12 58. Answering paragraph 91 of the First Amended Complaint, which incorporates other
13 paragraphs by reference, responding parties admit, deny or otherwise plead to the incorporated
14 paragraphs as previously set forth.

15 59. Answering paragraph 92, responding parties admit they had a duty not to discriminate
16 against plaintiff on the basis of race or color and a duty not to violate her rights to privacy, due
17 process and equal protection of the laws. Responding parties deny all other allegations in paragraph
18 92 and deny that they have violated any of the rights described therein.

19 60. Answering paragraphs 93 and 94 of the First Amended Complaint, responding parties
20 deny each and every allegation contained therein.

21 61. Answering paragraph 95 of the First Amended Complaint, which incorporates other
22 paragraphs by reference, responding parties admit, deny or otherwise plead to the incorporated
23 paragraphs as previously set forth.

24 62. Answering paragraphs 96 and 97 of the First Amended Complaint, responding parties
25 deny each and every allegation contained therein.

26 63. Answering paragraph 98 of the First Amended Complaint, which incorporates other
27 paragraphs by reference, responding parties admit, deny or otherwise plead to the incorporated
28 paragraphs as previously set forth.

1 64. Answering paragraphs 99, 100 and 101 of the First Amended Complaint, responding
2 parties deny each and every allegation contained therein.

3 65. Answering paragraph 102 of the First Amended Complaint, which incorporates other
4 paragraphs by reference, responding parties admit, deny or otherwise plead to the incorporated
5 paragraphs as previously set forth.

6 66. Answering paragraphs 103, 104 and 105 of the First Amended Complaint, the
7 Sixteenth Cause of Action is not against these answering defendants and, therefore, no answer is
8 necessary to these paragraphs.

9 67. Answering paragraph 106 of the First Amended Complaint, which incorporates other
10 paragraphs by reference, responding parties admit, deny or otherwise plead to the incorporated
11 paragraphs as previously set forth.

12 68. Answering paragraphs 107 and 108 of the First Amended Complaint, the Seventeenth
13 Cause of Action is not against these answering defendants and, therefore, no answer is necessary to
14 these paragraphs.

15 69. Answering paragraph 109 of the First Amended Complaint, which incorporates other
16 paragraphs by reference, responding parties admit, deny or otherwise plead to the incorporated
17 paragraphs as previously set forth.

18 70. Answering paragraphs 110, 111, 112, 113 and 114 of the First Amended
19 Complaint, the Eighteenth Cause of Action is not against these answering defendants and, therefore,
20 no answer is necessary to these paragraphs.

21 71. In response to paragraph 115, responding parties acknowledge that plaintiff requests a
22 jury Trial. These responding parties also request a jury Trial in this action.

23 **AFFIRMATIVE DEFENSES**

24 **FIRST AFFIRMATIVE DEFENSE**

25 72. Because the First Amended Complaint is couched in conclusory terms, responding
26 parties cannot fully anticipate all affirmative defenses that may be applicable to this matter.
27 Accordingly, the right to assert additional affirmative defenses, if and to the extent such affirmative
28 defenses are applicable, is hereby reserved.

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SECOND AFFIRMATIVE DEFENSE

73. Responding parties assert that plaintiff has failed to state a claim upon which relief can be granted.

THIRD AFFIRMATIVE DEFENSE

74. Responding parties assert that they did not deprive plaintiff of any right, privilege, or immunity guaranteed by the Constitution or laws of the United States.

FOURTH AFFIRMATIVE DEFENSE

75. Responding parties assert that they did not act with malicious intent to deprive any person of any constitutional right or to cause any other injury and therefore are not liable.

FIFTH AFFIRMATIVE DEFENSE

76. Responding parties are immune from liability pursuant to the Federal Civil Rights Act where they acted in good faith and entertained an honest, reasonable belief that their actions were necessary.

SEVENTH AFFIRMATIVE DEFENSE

77. Responding parties assert they are immune from damages in that he acted in good faith in accordance with established law.

EIGHTH AFFIRMATIVE DEFENSE

78. Responding parties assert they did not breach any duty owed to plaintiff.

NINTH AFFIRMATIVE DEFENSE

79. Responding parties assert they are not liable to plaintiff for any injury or damages, if there were any, caused by an exercise of discretion.

TENTH AFFIRMATIVE DEFENSE

80. Responding parties assert that at all times herein relevant, if there were any injury or damage, plaintiff failed to mitigate such injury or damage.

ELEVENTH AFFIRMATIVE DEFENSE

81. Responding parties assert that to the extent that plaintiff suffered any injury it was the result of her own negligent or deliberate actions.

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TWELFTH AFFIRMATIVE DEFENSE

82. Responding parties assert that to the extent plaintiff raises claims of violations of state law she is beyond the jurisdiction of this Court.

THIRTEENTH AFFIRMATIVE DEFENSE

83. Responding parties assert that to the extent that plaintiff recovers damages on any claim brought under state law, responding parties are entitled to have the amount abated, apportioned or reduced to the extent that any other party's negligence caused or contributed to damages, if any there were.

FOURTEENTH AFFIRMATIVE DEFENSE

84. Responding parties assert that plaintiff has failed to allege facts sufficient for this Court to exercise pendent jurisdiction.

FIFTEENTH AFFIRMATIVE DEFENSE

85. Responding parties assert the First Amended Complaint and each cause of action fails to allege facts sufficient to constitute a cause of action for punitive damages.

SIXTEENTH AFFIRMATIVE DEFENSE

86. Responding parties assert that plaintiff has failed to join all necessary parties to this action.

PRAYER FOR RELIEF

WHEREFORE, these answering defendants pray for relief as follows:

1. That plaintiff take nothing by her First Amended Complaint;
2. For costs of suit herein;
3. For attorneys' fees herein; and,
4. For such other and further relief as the court deems just and proper.

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JURY DEMAND

Defendants HOUSING AUTHORITY OF THE COUNTY OF CONTRA COSTA,
ELIZABETH CAMPBELL, KATHY GUZMAN and JOANNA RODRIGUEZ hereby demand a
Trial by jury.

DATED: May 20 2008

EDRINGTON, SCHIRMER & MURPHY

By: 

Timothy P. Murphy, Esq.

Attorney for Defendants

HOUSING AUTHORITY OF THE COUNTY
OF CONTRA COSTA, ELIZABETH
CAMPBELL, KATHY GUZMAN and
JOANNA RODRIGUEZ